

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

THE ESTATE OF DENISE SHORT,
BY AND THROUGH KIERRA CALHOUN,
AS ADMINISTRATRIX, AND KIERRA CALHOUN,
ON BEHALF OF THE WRONGFUL DEATH
DENEFICIARIES OF DENISE SHORT

PLAINTIFF

VS.

CIVIL ACTION NO. 3:24-CV-00293-HTW-LGI

MISSISSIPPI DEPARTMENT OF CORRECTIONS,
BURL CAIN, IN HIS INDIVIDUAL AND OFFICIAL
CAPACITIES AS THE COMMISSIONER OF THE
MISSISSIPPI DEPARTMENT OF CORRECTIONS,
JOHN HUNT, IN HIS INDIVIDUAL, ET AL

DEFENDANTS

DEFENDANTS THE MISSISSIPPI DEPARTMENT OF CORRECTIONS,
COMMISSIONER BURL CAIN, JOHN HUNT, TEREDA HAIRSTON, BENJAMIN
JENNINGS, AND ANGELA SMITH'S MOTION TO DISMISS

Defendants Mississippi Department of Corrections (“MDOC”), Commissioner Burl Cain, John Hunt, Tereda Hairston, Benjamin Jennings, and Angela Smith (collectively “MDOC Defendants”) under Rules 12(b)(1) and 12(b)(6), *Federal Rules of Civil Procedure*, file this their motion to dismiss and in support thereof would show unto the Court the following:

1. Plaintiffs’ claims against the MDOC Defendants should be dismissed under Fed. R. Civ. P. 12(b)(1) and 12(b)(6) because: (1) all of Plaintiffs’ claims against the MDOC Defendants in their official capacities are barred by Eleventh Amendment sovereign immunity; (2) the MDOC Defendants are entitled to qualified immunity for those claims asserted against them in their individual capacities; and (3) Plaintiffs’

First Amended Complaint fails to state a legally cognizable claim against the individually named MDOC Defendants.

2. Defendants adopt and incorporate by reference, all arguments and authorities set forth in the *Memorandum of Authorities of Defendants the Mississippi Department of Corrections, Commissioner Burl Cain, John Hunt, Tereda Hairston, Benjamin Jennings, and Angela Smith's Motion to Dismiss*, being filed contemporaneously.

3. Based on the grounds asserted herein and as further set forth in the memorandum of authorities, Plaintiffs' First Amended Complaint should be dismissed under Rule 12(b)(1) and Rule 12(b)(6).

WHEREFORE, PREMISES CONSIDERED, the MDOC Defendants, in their official and individual capacities, respectfully request that the Court make and enter its Order dismissing Plaintiffs' First Amended Complaint in its entirety.

THIS the 13th day of January, 2025.

MISSISSIPPI DEPARTMENT OF
CORRECTIONS, BURL CAIN, IN HIS
INDIVIDUAL AND OFFICIAL
CAPACITIES AS COMMISSIONER OF
THE DEPARTMENT OF CORRECTIONS,
JOHN HUNT, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITIES, and TEREDA
HAIRSTON, IN HER INDIVIDUAL AND
OFFICIAL CAPACITIES, BENJAMIN
JENNINGS, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITIES, AND ANGELA
SMITH, IN HER INDIVIDUAL AND
OFFICIAL CAPACITIES *Defendants*

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the ECF system which provided notice to all counsel of record.

This the 13th day of January 2025.

/s/ James H. Hall